

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DUNCAN J. McNEIL,

Plaintiff,

No. CV-05-200-AAM

VS.

ORDER OF DISMISSAL

CITIZENS AGAINST, et al.,

Defendants.

In an apparent effort to circumvent the pre-filing review orders issued by this court,

¹ plaintiff filed an action in the United States District Court for the District of Columbia.¹ The

19 District of Columbia transferred the action to the Eastern District of Washington on the basis that

20 it was a habeas matter and plaintiff is incarcerated in this district. Actually, however, plaintiff's

²¹ complaint appears to be a petition for writ of mandamus pursuant to 28 U.S.C. §1331. Even as

22 such, the transfer is appropriate.

Apparently, what plainti

agencies, including various federal courts, including the Eastern District of Washington, to

¹ He also attempted to file the identical action in the Western District of Kentucky. The documents, however, were not filed there and transferred here, but simply sent here by the Clerk of the Court for the Western District of Kentucky. Those documents will not be filed in this court for the reasons provided in this order.

1 enforce judgments plaintiff claims to have obtained in the United States Bankruptcy Court for the
 2 Eastern District of Washington, the United States District Court for the Eastern District of
 3 Washington, the United States Bankruptcy Court for the Western District of Washington, the
 4 United States District Court for the District of Idaho and the Spokane County Superior Court.
 5 Plaintiff apparently asserts that based on these judgments, a stipulated order was entered in CS-
 6 97-435-RHW and that this order should somehow be used to “execute” the aforementioned
 7 judgments. Plaintiff offers no explanation, however, as to how these foreign judgments, to the
 8 extent they in fact exist and were registered, are related to the stipulated order entered in CS-97-
 9 435-RHW.²

10 The “Stipulated Order Re: Liability And Damages” filed in CS-97-435-RHW on January
 11 30, 2001 (Ct. Rec. 567), stipulated that counterclaimants, Citizens Against Bankruptcy & Real
 12 Estate Fraud L.P., Broadway Building II, L.P., Capital Finance, L.P., and Emerald Services
 13 Group, were jointly and severally liable to plaintiff, McNeil, in the sum of \$319,132.00. No
 14 judgment, however, was ever entered pursuant to this stipulation, Judge Whaley deeming that no
 15 judgment was necessary. (Ct. Rec. 584 in CS-97-435-RHW filed March 12, 2001).³ If plaintiff
 16 seeks to enforce the order entered in CS-97-435-RHW against the aforementioned
 17 counterclaimants, he may file a motion in CS-97-435-RHW asking Judge Whaley to issue a writ
 18 of execution **in that case**. As such, there simply is no need for and no basis for issuance of the
 19 writ of mandamus sought by plaintiff.

20 Plaintiff’s “complaint” (petition for writ of mandamus) is **DISMISSED with prejudice**.
 21 Plaintiff shall not be allowed to file any further documents in the captioned matter, with the
 22

23 ² No foreign judgments were registered in this court in CS-04-427-AAM. Plaintiff was
 24 advised of this just recently in an order entered in CV-04-279-AAM (Ct. Rec. 84).

25 ³ Apparently filed in the District of Columbia was a “Certification Of Judgment For
 26 Registration In Another District” certifying that in CS-97-435-RHW “the attached judgment is a
 27 true and correct copy of the original judgment entered in this action on March 15, 2002 as it
 28 appears in the records of this court.” No judgment is attached to the certification, however, and
 in reviewing the docket report in CS-97-435-RHW, the court fails to see where any formal
 judgment was entered in favor of plaintiff and specifically one on March 15, 2002.

1 exception of a Notice of Appeal to the Ninth Circuit Court of Appeals. If plaintiff chooses to
2 appeal, this order serves as this court's notice that the appeal is not taken in good faith and will
3 not be certified for appeal by this court. 28 U.S.C. §1915(3) and Fed. R. App. P. 24(a).

4 **IT IS SO ORDERED.** The District Executive shall forward a copy of this order to
5 plaintiff McNeil.

6 **DATED** this 11th of July, 2005.

7 s/ Alan A. McDonald
8 ALAN A. McDONALD
9 Senior United States District Judge